



STATE BOARD OF LAND COMMISSIONERS
Dirk Kempthorne, Governor and President of the Board
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Keith L. Johnson, State Controller
Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

Final Minutes
Regular Land Board Meeting
December 20, 2005

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, December 20, 2005 in Boise, Idaho. The meeting began at 9:26 a.m. in the second floor courtroom of the Borah Post Office building. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Ben Ysursa
Honorable Attorney General Lawrence G. Wasden
Honorable State Controller Keith L. Johnson
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

- **CONSENT**

Director Wiggins provided background information on the Consent Agenda items.

A motion was made by Attorney General Wasden to approve the Consent Agenda in its entirety. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

- **CONSENT**

1. **Director's Report – approved**

- A. Interest Rate on Department Transactions – November 2005
- B. Bureau of Real Estate, Land Sale Section, Official Transactions – October 2005
- C. Bureau of Real Estate, Easement Section, Official Transactions – October 2005
- D. Bureau of Surface and Mineral Resources, Official Transactions – October 2005
- E. Timber Sale Official Transactions – October 22, 2005 through November 25, 2005
- F. Timber Sale Activity Report
- G. Legal Matter Summary

2. **Timber Sale – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved**

A. Jericho Mountain CR-41-0018 3,365 MBF Ponderosa

3. Qualified Bidders List – Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – **approved**

A. Forest Transport, Inc., P. O. Box 49, 3759 Hwy 6, Princeton ID 83857

4. Request for Approval to Dispose of Surplus Property Owned by the Idaho Military Division to the City of Homedale in Owyhee County – Staffed by Perry Whittaker, Chief Bureau of Real Estate – **approved**

DEPARTMENT RECOMMENDATION: Direct the Department to advertise a public hearing regarding sale of the 7-acre parcel to the City of Homedale. Also, direct the Department to transfer the property to the City of Homedale if no adverse comments are received at the public hearing.

DISCUSSION: Governor Kempthorne asked for confirmation that the 7-acre parcel is Guard property. Director Wiggins stated it is, and the Guard had declared the property surplus to their needs. The City of Homedale has expressed an interest in acquiring the property.

BOARD ACTION: Approved.

5. Approval Request for Disclaimer of Interest to Douglas Jayo for Accretion Land Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief Bureau of Real Estate – **approved**

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 12.64 acres of the former bed of the Boise River and to require Douglas Jayo to pay a fee of \$600.00 to the Department of Lands for this transaction.

DISCUSSION: Controller Johnson asked about agenda items 5 and 6. The first disclaimer is 12.64 acres and the second is 9.59 acres. Controller Johnson noted that these are fairly significant sized parcels. He asked if it is normal for the riverbed to change to that degree. Director Wiggins stated that while these appear to be fairly large parcels, the riverbed movement was gradual. What typically brings these items to the fore is that someone who has been using the property, and probably was not even aware that it was riverbed at one time, wants to sell or otherwise use the property for collateral. In attempting to obtain title insurance, it would show in the title that they do not, in fact, own the property. These changes probably occurred over a period of decades, and the acreages vary. In some cases, the riverbed has actually moved one-half mile. In other cases, it has been a more marginal change.

Along those same lines, Dr. Howard noted it seems the Board is always addressing disclaimers of interest. She asked if the State ever gets anything back. Mr. Perry Whittaker, Chief, Bureau of Real Estate, stated in the case of item 5, Mr. Jayo will grant the State of Idaho an easement 25 feet in width for a pedestrian travel way for fishing and other recreational uses, along and adjacent to the existing ordinary high water line of the Boise River. The applicant will also disclaim one parcel of land totaling 0.05 acre below the ordinary high water line as public trust land. Director Wiggins added that the Boise River, down river from Boise, is constantly changing so the Board will continue to see disclaimers. The river is not in a confined channel. It meanders and continues to move. Governor Kempthorne highlighted that the State is securing pedestrian paths along the river. He noted one of the things Boise is known for is its river walk so that is a positive. Director Wiggins stated the pedestrian path is a condition of each disclaimer.

BOARD ACTION: Approved.

6. Approval Request for Disclaimer of Interest to Linda Yanke for Accretion Land Adjacent to the Boise River in Ada County – Staffed by Perry Whittaker, Chief Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for one parcel totaling 9.59 acres of the former bed of the Boise River and to require Linda Yanke to pay a fee of \$600.00 to the Department of Lands for this transaction.

DISCUSSION: See Item 5 above.

BOARD ACTION: Approved.

7. Minutes – approved

A. Regular Land Board Meeting – November 15, 2005

• **REGULAR**

8. Endowment Fund Investment Board Manager's Report – Presented by Larry Johnson, Manager of Investments, EFIB

Mr. Larry Johnson, Manager of Investments, EFIB, reviewed the standard investment report, which is the final report for the month of November. He stated the custodian typically goes through a nine-working day period in which they reconcile their results with the investment managers and double check their records. By about the 15th of each month, the final numbers are available for the previous month. Mr. Johnson stated there was a strong November with a 3% return for the Fund, which almost doubled fiscal year-to-date results. The 6.1% return puts the Fund essentially even with PERSI for this same time period. The Fund is 170 basis points ahead of the benchmark fiscal year-to-date because the EFIB is in the fortunate situation that all eleven of its active managers are at, or above, their benchmark. Preliminary results for the first nineteen days of December are up about another point and a half so that is good news.

Mr. Johnson directed the Board's attention to a new graph of total endowment assets over the last eleven years. The graph reflects both the Permanent Fund and the Earnings Reserve.

Governor Kempthorne, referring to the preliminary month-end report and the final month-end report, asked if there is some way to further denote the difference because at a quick glance, the reports appear identical yet the numbers are slightly different.

Governor Kempthorne noted the Fund is currently at \$902 million as of the end of November, which is the first time it has crossed the \$900 million threshold. He asked Mr. Johnson when he anticipates the Fund will reach \$1 billion. Mr. Johnson stated based on targeted returns, the Fund would be at \$1 billion toward the end of calendar year 2006. However, Mr. Johnson noted there is a lot of variability in the markets, which the Board has witnessed in the past.

Mr. Johnson provided a status update on the Endowment Reform Task Force. Five meetings have been held with the next meeting scheduled for January 2006. The Task Force has identified six general work categories.

1. Finalize CPI Legislation – technical adjustment to clarify calculation of inflation protection of permanent fund (gain benchmark)
2. Asset Management Plan – refine current draft; review conceptual framework
3. Legislative Package for Improved Land Management Practices – identify outstanding issues; complete drafts for introduction January 2007

4. Enhance Forecasts of the level of the earnings reserve funds; estimate risk of shortfalls
5. Test Different Approaches to Spending Policy – brainstorm options
6. Develop plans to consolidate trust holdings, including (1) valuation and pooling of smaller endowments, (2) roughly right valuation of all endowments (excluding Public Schools) confirmed by U.S. Congress, (3) examine options to accomplish significant swapping/blocking of existing land tracts.

Mr. Johnson advised the Board that the Joint Finance and Appropriations Committee has invited him to participate in a discussion regarding the spending policy after the EFIB budget presentation. Mr. Johnson noted that this discussion ties in with the Board's invitation to JFAC to attend the February Land Board meeting. Mr. Johnson stated he will share his presentation with the Board and staff members ahead of time to allow for their comments. Initially, Mr. Johnson stated he plans to cover the roles of the Land Board, the Endowment Fund and the Legislature in dealing with setting the spending policy. In addition, he plans to talk about some of the issues being addressed by the Reform Review Task Force, the kinds of issues that drive spending policy, and how the approved policy for fiscal year 2007 was determined.

DISCUSSION: Superintendent Howard asked how, under the pooled approach, percentages are allotted to the various beneficiaries. In particular, she asked about the Normal Schools. Mr. Johnson stated that Normal Schools is an example of the Fund that is already pooled. Fifty percent of the revenue goes to Lewis and Clark and fifty percent goes to Idaho State. The process for further consolidation of land holdings would be to value the lands appropriately and to basically expand the number of owners of a certain group of lands in the same way.

Superintendent Howard stated when she looks at the graph provided by Mr. Johnson, it is a stark reminder that what goes up, might come down. For the February meeting, she asked Mr. Johnson to touch on either the strength or the fragility of where we are right now because our holdings are based on the US economy, as well as some international, and then heavy on the US large, mid and small caps. Some of the things she has been reading are raising serious questions about what might lie ahead. She is wondering how the Endowment Board examines those economic-related trends and how we might be positioned in that regard.

Governor Kempthorne stated he would be interested in seeing a revised chart of endowment assets with a comparison versus PERSI and also a couple of others, perhaps a national trend – just some indicators

Governor Kempthorne asked if we can take corrective action sooner or is this all just the vagaries of the market. Mr. Johnson stated that, based on his experience in the investment market, people who try to time the market do not win. There are professional managers who charge a large fee to accomplish that feat, and over time, the overwhelming majority fail. Mr. Johnson stated the real lever we can pull is the asset mix and that is an issue the EFIB and the Reform Review Task Force will consider later in calendar 2006.

Secretary of State Ysursa asked where the Fund would be if the Board had continued with fixed income. Mr. Johnson stated he has not calculated a precise number but that he would do so. Secretary of State Ysursa stated he still believes it was the right thing to do for the long term and that the 70/30 equity/bond mix, which is typical for this type of Fund, was also the right thing to do. Governor Kempthorne remarked the follow up to that is we would be very close to where we would have been, but because this is cyclical, when it happens again, are we better off than if had we stayed with fixed income. Mr. Johnson stated that the best way to address this is through the examination of the asset mix he mentioned earlier.

No action taken on this agenda item.

9. Request for Approval of an Exchange of Development Rights between State of Idaho Corrected Deed and Existing Land Sale Certificate held by Bogus Basin Recreation Association, Inc. – Presented by Denise Mills, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: Direct the Department to execute the State deeds for BBRA relative to the exchange of use restrictions and for LSC 25724 and LSC 24729 upon receipt of \$7,330 from BBRA to purchase the development rights as well as final payment for the land sale contracts.

DISCUSSION: Attorney General Wasden stated he is concerned about the methodology used to capture the value of the development rights on the parcels. He is also concerned about the transfer of non-development restrictions to the other parcels. He is not certain those parcels are developable even if Bogus Basin has a development right. He asked if we are capturing the value method that we should be capturing in terms of the transfer of the development rights and is placing those restrictions on these lands really doing anything of any value. Director Wiggins stated he suggested the valuation method. He doubted that the values would justify a full appraisal, which would cost between \$3000 and \$5000. The development rights that Bogus Basin Recreational Association would acquire are valued at \$7300+ dollars, close to \$6,000 an acre. The valuation completed at the time that the development rights were originally purchased on the other parcel was used and that value was inflated at the CPI through time. An appraisal could have been done, but it is an unusual appraisal since only the development rights would be appraised. For the cost, estimating \$4000 for an appraisal, a value of \$11,300 for this acre and a quarter would have to be realized to break even. It was a judgment call.

Governor Kempthorne invited Mr. Mike Shirley, President and General Manager, Bogus Basin Recreational Association, to address the Board.

Mr. Shirley thanked Governor Kempthorne for the opportunity to address the Board. He stated this is a relatively minor land exchange that does nothing more than accommodate the ability of BBRA to use the land in a better way. It uses essentially flat ground that the BBRA has developed into a parking lot, which is not very heavily used right now, and which a developer might be able to build on. It would be worth more to a developer than the side hill that existed before, and existed, indeed, over the flatter parking lot area that BBRA re-graded at a cost of some tens of thousands of dollars in years past. Mr. Shirley stated he is talking more about public use restrictions adhering to one parcel or the other as opposed to development rights. It is really trading some land that BBRA owns for other land that BBRA owns with or without the public use restrictions.

Governor Kempthorne asked Mr. Shirley to state again what the objective is for this exchange. What will be accomplished. Mr. Shirley stated it really just reconfigures that 5.8 acres into a more amenable piece of land. The reconfiguration will allow a developer to build condominium units or a condominium-hotel complex. This exchanges the same acreage, the same area, but a more amenable terrain for building purposes. Governor Kempthorne asked if this exchange is important for BBRA to remain competitive. Mr. Shirley stated it is really part of a financial recovery plan for Bogus Basin to be able to overcome the effects of three pretty bad winters. There is not much BBRA can sell up there, but this little parcel of land represents part of what it can do. BBRA became a 501(c)(3) charitable organization so it is able to collect tax deductible money now. All of these are components of a pretty radical recovery plan so that Bogus Basin can survive and be a part of what it has always been to the community.

Governor Kempthorne asked what entity undertakes design review should there be construction. Mr. Shirley stated Bogus Basin retains all design review rights over the entire complex. Governor Kempthorne asked what the snow pack situation is now. Mr. Shirley stated it changes on an hourly basis. Mr. Shirley added that as far as competition goes, BBRA sees itself in more of a cooperative relationship than a competitive relationship. Other ski resorts need BBRA's population of skiers and snow boarders and BBRA has found some ways to take mutual advantage of that. Governor Kempthorne commented that BBRA grows new skiers. Mr. Shirley stated that is exactly right. The reason the IRS gave BBRA its 501(c)(3) designation is because of the really subsidized way they

conduct their business. Governor Kempthorne wished Mr. Shirley and BBRA continued success. He stated Bogus Basin is a great asset for this valley and for the whole state.

BOARD ACTION: A motion was made by Secretary of State Ysursa to move the Department's recommendation. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

10. Approval Request for Disclaimer of Interest to the City of Bonners Ferry for Accretion Land Adjacent to the Kootenai River in Boundary County – Presented by Denise Mills, Assistant Director, Lands, Minerals, Range

DEPARTMENT RECOMMENDATION: Direct the Department to issue a disclaimer of interest for this parcel of land totaling 1.035 acres of the former bed of the Kootenai River and to require the City of Bonners Ferry to pay a fee of \$600.00 to the Department of Lands for this transaction.

DISCUSSION: Director Wiggins stated this item was before the Board in November. At that time, the Department received a 4:00 a.m. fax from a Mr. Robert Moir of Bonners Ferry protesting this agenda item. The Board directed the Department to go back and give Mr. Moir the opportunity to submit information that would add to the decision process used here. Mr. Moir did comply, but the information he provided does not change anything. He was given the opportunity to be here today, and he is not in attendance. The Department of Transportation and the City of Bonners Ferry were also given the opportunity to be here today, and they are not here either.

BOARD ACTION: A motion was made by Attorney General Wasden to move adoption of the Department's recommendation. Controller Johnson seconded the motion. The motion carried on a vote of 5-0.

• **INFORMATION**

Director Wiggins briefed the Board on the Information Agenda item. No Land Board action is required on the Information Agenda.

11. Lacey Meadows Annual Update

Director Wiggins stated this item has been included at the request of the Board. It is a summary of the condition of the Lacey Meadows allotment. A year ago in the spring the Department elected not to graze the allotment. In general, the Department has identified about 3200 acres on the allotment that will be ready to lease for grazing purposes in 2007. The Department will continue to monitor the allotment and will continue to watch its condition along with monitoring tree growth. The key reason the Department did not graze this allotment was the tree seedlings and the fact that the site is being converted from decadent timber stands to faster growing stands.

At 10:16 a.m. a motion was made by Secretary of State Ysursa to resolve into Executive Session. Superintendent Howard seconded the motion. The motion carried on a vote of 5-0.

• **EXECUTIVE SESSION**

A. To Consider Records that are Exempt from Disclosure [\[Idaho Code § 67-2345\(1\)\(d\)\]](#)

B. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [\[Idaho Code § 67-2345\(1\)\(f\)\]](#)

C. To Consider Personnel Matters [[Idaho Code § 67-2345\(1\)\(b\)](#)]

D. To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency [[Idaho Code § 67-2345\(1\)\(c\)](#)]

At 11:15 a.m. a motion was made by Attorney General Wasden to resolve into Regular Session. Secretary of State Ysursa seconded the motion. The motion carried on a vote of 5-0.

There being no further business to come before the Board, upon unanimous consent the meeting adjourned at 11:15 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ Ben Ysursa

Ben Ysursa
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins
Director

<p>The above-listed final minutes were approved by the State Board of Land Commissioners at the February 14, 2006 regular Land Board meeting.</p>
